

A meeting of the New Hampshire Water Well Board was held on October 2nd, 2003 at 9:30 am, in rooms 110 & 111, 29 Hazen Drive, Concord, NH, 03302.

Present were: Terrell Swain, Chairman
Rene Pelletier, Secretary
Board members: Bart Cushing, David Wunsch and Peter Caswell.
Staff: Rick Schofield and Tim Wilson

Chairman Swain brought the meeting to order at 9:30.

Approval of Minutes

Upon motion by Mr. Cushing, seconded by Mr. Caswell, the Board voted unanimously to accept the Minutes of the August 12th meeting as written.

Upon motion by Mr. Caswell, seconded by Mr. Cushing, the Board voted unanimously to accept the Minutes of the September 4th meeting as written.

Administrative Fines

Chairman Swain welcomed Gretchen Rule from the NHDES Legal Unit. Attorney Rule outlined the procedure for administering fines under RSA 482-B by DES and the Board. The statute confers the same authority to the Commissioner of DES as is conferred by all other administrative fine provisions in statutes administered by DES. The only difference between the process established under RSA 482-B and that established in other statutes is the appeal route. The Board has the statutory authority to modify a decision on appeal. DES always has the authority to settle an administrative fine case that it initiates. The Compliance Assurance Response Policy ("CARP") established by DES includes the possibility, and encourages programs, to settle administrative fine cases when possible, which is also encouraged by the Administrative Procedures Act, RSA 541-A and by public policy.

The Board focused questions and comments on why, in some cases, a large disparity exists between the final imposed fine and the administrative fine schedule. Attorney Rule expressed to the membership that the Board's input on this matter is extremely valuable at this time because the CARP is going to be reviewed and revised in the near future. DES wants to know if enforcement actions it initiates for violations of RSA 482-B and the rules of the Board are reasonably consistent with the enforcement policy of the Board, which is the appellate body.

Licensing

Mr. Schofield presented the Board with a list of 16 new license applicants. Of the sixteen applicants, 5 license certificates were not signed by the Chairman because the business entities to be licensed were not registered with the New Hampshire Secretary of State Office as required by RSA 349:5. The membership also discussed the application of County Pump & Supply Co. The qualified individual for the company passed away in the spring of this year and the license became void at that time. Several members expressed concern that County Pump & Supply Co., had continued to conduct business in New Hampshire after the license was void. The Board agreed that the 5 applicant's licenses would be held until the applicants provide a copy of the company's certificate of existence.

After further discussion it was decided that new license applications would be placed on the agenda for future meetings for the membership to review and discuss as necessary prior to the license certificates being signed.

Public Hearing

Scott Nash d/b/a Eddie Nash & Sons

The public hearing had been scheduled to allow Mr. Nash the opportunity to show cause why his water well contractor license should not be revoked for refusal to file well completion reports as required by RSA 482-B:10. Mr. Schofield informed the membership that the Board received a letter from Mr. Nash surrendering his license and notifying the board that he would not be attending the hearing. There was no discussion on the issue.

Old Business

At the September 4th, 2003 meeting it was brought to the attention of the Board that Gap Mountain Drilling and Gap Mountain Well & Pump, LLC, mutually owned by Bob Tupper, were advertising in the Verizon yellow pages next to Gap Mountain Drilling, LLC, owned by Chris Parker. Mr. Parker had recently bought the company and obtained a water well contractor license. The Board instructed staff to check the companies registration status with the Secretary of State's Office.

Staff reported that all three companies were registered with the Secretary of State, however, the license held by Gap Mountain Well & Pump LLC had expired in July 2003. Although the license was active at the time of publication of the advertisement, it was believed that the company was currently engaged in the business well construction and pump installation. Upon motion by Mr. Pelletier and seconded by Mr. Cushing, the Board voted unanimously to send a letter to Mr. Tupper asking if in fact wells and pumps were being installed by Gap Mountain Well & Pump, and if so, he is to cease operations immediately until he obtains the required licenses.

New Business

Water Well Database Query - Mr. Schofield announced to the Board that the Water Well Database Query was now available to the public on the OneStop website but that it needed some refinement for easier operation. Mr. Cushing commented that the format as presented allowed for anybody, competitors in particular, to gain an unfair competitive advantage by generating a customer list for any given driller. After further discussion it was decided to eliminate the ability to search by license number. It was suggested that the driller only be identified in the detail section of a given single record so that the intent of this public information is met. Additionally it was recommended that Board members spend some time working with the query on the website to generate comments for revisions to the query.

New Fact Sheet - Best Management Practices for Well Drilling Operations - Mr. Schofield handed out a draft fact sheet for review that was developed by the Watershed Management Bureau.

Chairman Swain suggested that any comments be submitted to Mr. Schofield for consideration and that it be part of the agenda for the next meeting.

Exam Review (Non-public Session)

Chairman Swain informed members of the public in attendance that the Board would be entering a non-public session to discuss licensing exam questions.

The meeting was adjourned following conclusion of exam review.

Rene Pelletier
Water Well Board Secretary